

Amendments to the Drawings

Applicant amends FIGS. 4, 5, and 6 to include the reference numeral 100. Two replacement sheets are included at the end of this paper.

REMARKS/ARGUMENTS

Claims 1-37 are pending in this application. Claims 34-37 have been withdrawn. Applicant has amended three paragraphs of the specification to address the Examiner's objections to the specification and drawings. Applicant has amended three figures to address the Examiner's objections to the drawings. No new matter is introduced by these amendments.

OBJECTION TO THE SPECIFICATION

Applicant amends the specification to address the Examiner's concern with the repeated word and chooses not to amend the other word choice presented by the Examiner. Applicant requests withdrawal of the objection to the specification.

OBJECTIONS TO THE DRAWINGS

The Examiner objected to the drawings as allegedly failing to comply with 37 CFR 1.84(p)(5) because they do not include various reference numerals mentioned in the description. In general, Applicant traverses the objection, as nowhere in 37 CFR 1.84(p)(5) does it require the label to appear in all figures. Instead it merely states that a reference number in the text that does not appear in the figures is not permissible. In other words, if a reference numeral is used in the text but is never used in the figures, one reading the specification might not know which item was intended to be labeled with the reference numeral, depending on the description and what is illustrated in the figures. In each of the cases presented by the Examiner as to reference numerals not appearing in a particular figure mentioned in the same paragraph, the reference numeral has been used correctly in at least one other figure.

To address the concerns raised by the Examiner with regard to reference numerals used in paragraph [0042] about FIG. 6, Applicant has amended paragraphs [0041] and [0042], of the specification to clarify where those reference numerals 36 and 38 may be found.

With respect to the objection that FIG. 6 does not include the reference numeral "60" for the gas trap as mentioned in paragraph [0047], FIG. 6 shows a portion of device 100 without the cover sheet, thus only the recess 62 of gas trap 60 can be labeled. See paragraph [0048]. However, one looking at the series of figures mentioned in paragraph [0047] would recognize the shape of recess 62 as matching the shape of gas trap 60 illustrated (and labeled) in FIGS. 2, 4, 7, and 8, and would understand the sentence as generally accurate, especially given the next paragraph explaining FIG. 6 and the relationship, in various embodiments, of recess 62 and gas trap 60.

Applicant has added reference numeral 100 to FIGS. 4, 5, and 6. Replacement sheets may be found at the end of this paper.

With respect to the objection to that FIG. 2 does not include reference numerals 64 and 62 and FIGS. 7 and 8 do not include reference numeral 62 as mentioned in paragraph [0056], Applicant has amended paragraph [0056] to indicate that reference numeral 62 may be found in FIG. 6 and that reference numeral 64 may be found in FIGS. 7 and 8.

Applicant requests reconsideration and withdrawal of the objections to the drawings.

CLAIMS ARE PATENTABLE OVER U.S. Pub. No. 2007/0041878 A1

The Examiner rejected claims 1-3, 5, and 14 under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Pub. No. 2007/0041878 A1 to Bryning et al. (“Bryning”). Applicant traverses the rejections. With regard to claim 1, Bryning does not teach or suggest at least, “a reservoir in fluid communication with the sample containment feature and comprising a distal end portion including a closed end, wherein the reservoir extends away from the outlet portion, and the distal end portion is arranged closer to the inlet portion than to the outlet portion,” as recited in claim 1.

The Examiner interpreted the collection well 326 of Bryning to be a reservoir in fluid communication with inlet chamber 302 “through a series of sequential chambers and channels.” Office Action page 7. However, inlet chamber 302 is only in fluid communication with PCR chamber 306 when PCR inlet channel 304 is created in the valve, and PCR chamber 306 is fluidically isolated from PCR purification column 310 until channel 308 is created. However, channel 308 is created only after PCR has completed, see paragraph [0136] and FIG. 20 of Bryning, and prior to PCR being performed in PCR chamber 306, a barrier wall prevents fluid communication along channel 304 by closing channel 304, see paragraph [0135] and FIG. 21 of Bryning. Thus, inlet chamber 302 is never in fluid communication with reverse sequencing reaction product chamber 326. Accordingly, Bryning does not disclose or suggest each and every element of claim 1 and cannot anticipate it. Applicant requests withdrawal of the rejection and allowance of the claim.

With regard to the application of the Bryning to claims 2, 3, 5, and 14, Applicant does not agree with the Examiner’s interpretation of the reference and does not waive these arguments, as Applicant has demonstrated why claim 1 is patentable over Bryning, and claims 2, 3, 5, and 14 depend from claim 1 and are patentable for at least that reason. Applicant requests withdrawal of

the rejections and allowance of the claims.

BRYNING NOT AVAILABLE FOR 35 U.S.C. §103(a) REJECTIONS

The Examiner rejected claims 4, 7-13, and 15-33 under 35 U.S.C. §103(a) as being unpatentable over Bryning. Applicant traverses these rejections. The subject matter of Bryning and the claimed invention were, at the time the claimed invention was made, owned by Applera corporation or subject to an obligation of assignment to Applera Corporation. As such, under 35 U.S.C. §103(c), Bryning, which qualifies as prior art only under §102(e), cannot be used in a rejection under §103(a). Applicants request reconsideration and withdrawal of the rejections and allowance of the claims.

Applicants respectfully request reconsideration in view of the foregoing amendments and remarks and allowance of all pending claims.

FEE AUTHORIZATION and REQUEST FOR TIME EXTENSION

A Petition for a 2-Month Extension of Time is enclosed herewith. If any additional time extensions are required, such time extensions are hereby requested. If any additional fees not submitted with this response are required, please take such fees from Applied Biosystems Deposit Account No. 01-2213 (Order No. 5163).

Respectfully submitted,

Date: February 21, 2008

/Kristin L. Menon/
Kristin L. Menon
Attorney for Applicants
Reg. No. 56,869
Telephone: 650-554-2944
Customer No.: 22896